

EXHIBIT LRP 2006-00003:C

ORDINANCE NO. 3171

AN ORDINANCE CREATING A NEW TITLE 29 OF THE COUNTY CODE, THE AFFORDABLE HOUSING FUND.

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1: Title 29 of the County Code, entitled AFFORDABLE HOUSING FUND, is hereby established as it appears below:

(title page)

County of San Luis Obispo

AFFORDABLE HOUSING FUND

With

In-lieu Fee and Housing Impact Fee

**TITLE 29 OF THE SAN LUIS OBISPO
COUNTY CODE**

**ADOPTED BY
THE SAN LUIS OBISPO COUNTY BOARD OF SUPERVISORS
(DATE AND ORDINANCE NUMBER)**

TITLE 29 – AFFORDABLE HOUSING FUND
With In-Lieu Fee and Housing Impact Fee

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CHAPTER 29.01: PURPOSE

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29.01.010 – Purpose and Intent

- a. It is the intent of the County of San Luis Obispo to create an Affordable Housing Fund, in-lieu fee and housing impact fee as permanent and annually renewable sources of revenue to meet, in part, the housing needs of the County's *very low, low, moderate income* and *workforce* households. There are households which are income eligible and also possess one or more of the following characteristics: (1) they are burdened by paying more than thirty-five percent (35%) of their gross income for housing costs; (2) they live in overcrowded conditions; (3) they live in substandard housing units; (4) they are homeless individuals and families; or (5) they consist of individuals and families with special housing needs such as the elderly, the developmentally disabled, the mentally ill, the physically disabled, single parent households and large families.
- b. The Affordable Housing Fund will serve as a vehicle for addressing very low, low, moderate income and workforce housing needs through a combination of in-lieu fees, housing impact fees and other funds as provided for in these regulations.
- c. It is the intent of the County to foster a mix of family incomes in projects assisted by the Affordable Housing Fund and to disperse affordable housing projects throughout the County, in accordance with its housing policies and its intent to achieve a balance of incomes in all communities so that no single neighborhood experiences a disproportionate concentration of housing units affordable to very low, low, moderate or workforce households.
- d. It is the purpose and intent of this part to preserve and maintain ownership and rental housing units which are affordable to low, very low, moderate income and workforce households and that are located throughout the County, including federally assisted units and units located in mobile home parks.
- e. It is the further intent of the County to foster and encourage the private sector to join with the public sector and the nonprofit sector to further the goals of this ordinance.

29.01.020 – Findings

- a. In order to implement the goals and objectives of the County General Plan and Housing Element, to create a balanced housing stock that offers housing choices affordable for all income groups throughout the County, to mitigate the demand for affordable housing caused by new development projects within the County, and to mitigate the shortage of affordable housing stock created by development of housing that is affordable only to higher income households, it is necessary for the County to establish the Affordable Housing Fund, the in-lieu fee and housing impact fee. The fees are needed to finance affordable housing units for low, very low, moderate income and workforce households. The fees will help to assure that new development projects provide for their fair share of affordable housing.
- b. The Board of Supervisors finds and determines that:

- (1) New development projects cause the need for construction, expansion, or improvement of affordable housing within the County of San Luis Obispo.
- (2) Housing market conditions and new development projects have provided a disproportionate quantity of housing units that are not affordable to all income groups. This has created, County-wide, an unbalanced housing stock which lacks an equal share of housing units affordable to very low, low, moderate, workforce and above moderate income households.
- (3) Funds for construction, expansion, or improvement of affordable housing are not available to accommodate the needs caused by development projects; which will result in an inadequate supply of affordable housing stock within San Luis Obispo County.
- (4) The following studies, prepared by Vernazza Wolfe Associates, Inc. evaluate the housing market conditions in San Luis Obispo County: 1) San Luis Obispo County Inclusionary Zoning Ordinance Financial Analysis, dated December 21, 2007, and 2) Commercial Linkage Fee Nexus Study, dated December 21, 2007.
- (5) The Inclusionary Zoning Ordinance Financial Analysis evaluates the financial impact of the inclusionary housing ordinance on residential development (Title 22 Section 22.12.080 and Title 23 Section 23.04.096, all of the County Code), and establishes an in-lieu fee schedule that will enable residential development projects to provide a fair share of affordable housing units and yet receive a net profit that would meet the minimum expected return anticipated by residential developers.
- (6) The Commercial Linkage Fee Nexus Study evaluates and quantifies the demand for affordable housing caused by new commercial and industrial development. The Study establishes a reasonable and justifiable housing impact fee schedule that can be imposed on commercial and industrial development projects in order to mitigate the impact to the County's housing stock that is caused by such development projects.
- (7) The Studies establish a reasonable relationship between the use of the in-lieu and housing impact fees and the type of development projects on which the fees are imposed. The in-lieu fee shall be used to produce affordable housing units and mitigate the actions by residential development that generates a disproportionate share of above moderate income housing in the County. The housing impact fee shall be used to produce affordable housing and mitigate the need for such housing that is generated by the construction of new commercial and industrial projects in the County.
- (8) The Studies establish a reasonable relationship between the need for affordable housing and the type of development projects on which the in-lieu and housing impact fees are imposed. Residential development in San Luis Obispo County is generating a disproportionate number of dwelling units for above moderate income households, which has created an unmet need for affordable housing. The Studies provide an in-lieu fee schedule to be imposed on residential development. The in-lieu fee will be used to produce the needed affordable housing yet still allow residential developers to receive a net profit that meets the minimum expected return anticipated by them. The Studies document the number of affordable housing units needed when new commercial and industrial development is built. The Studies provide a housing impact fee schedule to be imposed on commercial and industrial development. The housing impact fee schedule provides a reasonable and justified fee amount that matches the cost of producing the affordable housing units needed to serve new commercial and industrial development.

- c. The Board of Supervisors finds that the public health, safety, peace, morals, prosperity and general welfare will be promoted by the adoption of the Affordable Housing Fund, the in-lieu fee and housing impact fee. These instruments will provide permanent and annually renewable sources of revenue that will be used to fund the construction, expansion, or improvement of affordable housing, the need for which is caused when new development projects create an unbalanced housing stock that is not affordable to all income groups. In establishing these fees, the Board of Supervisors finds that the in-lieu fee and housing impact fee are consistent with the County General Plan/Land Use Ordinance. Pursuant to Government Code section 65913.2, the Board of Supervisors has considered the effects of the fees with respect to the County's housing needs as established in the Housing Element of the General Plan/Land Use Ordinance.

29.01.030 – Authority for Adoption

This Title is adopted under the authority of Title 7, Division 1, Chapter 5 of the California Government Code (section 66000 et seq.) and Title 5, Division 2, Part 1, Chapter 13.7 of the California Government Code (section 54999 et seq.) and the San Luis Obispo County Code.

CHAPTER 29.02: ESTABLISHMENT OF FEES AND FUND

Sections:

29.02.010	Establishment of the In-Lieu Fee and Housing Impact Fee
29.02.020	Establishment of the Affordable Housing Fund and Housing Impact Fee Account
29.02.030	Administration

29.02.010 Establishment of the In-Lieu Fee and Housing Impact Fee

- a. The in-lieu fee is hereby established. Title 22 Section 22.12.080 and Title 23 Section 23.04.096 – Inclusionary Housing, set forth the inclusionary housing requirement of each development project and the options the applicant may choose to satisfy the requirement. At the option of the applicant, the in-lieu fee may be imposed as a condition of permits for, or the approval of, new residential development projects within the County in order to satisfy the inclusionary housing requirement.
- b. The housing impact fee is hereby established. The said fee is to be imposed as a condition of permits for, or the approval of, new development projects within the County. All housing impact fee(s) shall be deposited into the Housing Impact Fee account and used solely to pay for construction of affordable housing units within the projects identified in the Affordable Housing Fund Annual Action Plan.

29.02.020 Establishment of the Affordable Housing Fund and Housing Impact Fee Account

- a. There is hereby established by the County Auditor-Controller in the County Treasury an interest-bearing fund entitled the San Luis Obispo County Affordable Housing Fund. The said Fund shall receive all fees collected pursuant to Title 22 Section 22.12.080.E.2 – In-lieu fee, Title 23 Section 23.04.096.e(2) – In-lieu fee, any other appropriations as determined from time to time by the County, and all other moneys received by the Affordable Housing Fund either from special funds or general fund appropriations, or from other sources. Separate accounts within the Affordable Housing Fund may be created from time to time to avoid commingling if required by law or as deemed appropriate to further the purposes of the fund.
- b. There is also hereby established within the Affordable Housing Fund, a Housing Impact Fee account. The said account shall receive all fees collected from commercial and industrial development pursuant to Title 22 Section 22.12.080.F.1 – Payment of housing impact fee, and Title 23 Section 23.04.096.f(1) – Payment of housing impact fee. All funds in this account shall be used solely to pay for construction of affordable housing units within the projects identified in the Affordable Housing Fund Annual Action Plan.
- c. Principal and interest from loan repayments, proceeds from grant repayments, forfeitures, reimbursements, and all other income from Affordable Housing Fund activities, plus all income from the activities of the Fund's separate accounts, shall be deposited into the Affordable Housing Fund. All funds in the account shall earn interest at least at the same rate as pooled investments managed by the Treasurer. All interest earnings from the account shall be reinvested and dedicated to the account. Transfer of interest earnings shall be made quarterly or upon direction of the County Administrator. Transferred funds shall accrue interest from the time of transfer.

29.02.030 Administration

- a. The Affordable Housing Fund and all accounts within the Affordable Housing Fund shall be administered by the Director of Planning and Building (Planning Director), who shall have the authority to govern the Fund consistent with this Title, the appropriate ordinances and applicable County policies.

The Director shall prescribe procedures for said purpose, subject to approval by the County Board of Supervisors. The County has the option to select and contract with an outside entity/ nonprofit agency to administer a portion or all of the Affordable Housing Fund. The responsibilities, tasks, and performance standards to be assumed by the entity shall be described in an executed agreement between the entity and the County.

CHAPTER 29.03: USE OF MONEYS

Sections:

29.03.010	Purpose
29.03.020	Use of the Moneys
29.03.030	Expenditure

29.03.010 Purpose

Moneys deposited in the Affordable Housing Fund along with any interest earnings on such moneys shall be used to increase and improve the supply of housing affordable to workforce, moderate, low and very low income households. Moneys may also be used to cover reasonable administrative expenses not reimbursed through processing or other fees, including: i) reasonable consultant and legal expenses related to the establishment and/or administration of the Affordable Housing Fund; ii) reasonable expenses for administering the process of calculating, collecting, and accounting for in-lieu and housing impact fees, and iii) county administrative costs for the development, permitting, and the ongoing monitoring of affordable housing projects constructed with Affordable Housing Fund moneys. No portion of the Affordable Housing Fund may be diverted to other purposes by way of loan or otherwise.

29.03.020 Use of the Moneys

Moneys in the Affordable Housing Fund shall be used in accordance with the priorities identified by the Affordable Housing Fund Action Plan described in Section 29.05.020.b. The said moneys shall be used to construct, rehabilitate or subsidize very low, low, moderate income and workforce housing and/or to assist other governmental entities, private organizations or individuals in the construction, rehabilitation or subsidy of very low, low, moderate income and workforce housing. The moneys shall serve affordable housing projects that are located within the planning or housing market area that generated the funds, particularly as needed to support the geographic nexus for the collection of housing impact fees. Funds in the Housing Impact Fee account may be used only for the construction of affordable housing units within projects identified in the Affordable Housing Fund Annual Action Plan. Except for the moneys in the Housing Impact Fee account, all other moneys in the Affordable Housing Fund may be disbursed, hypothecated, collateralized or otherwise employed for these purposes from time to time as the Planning Director determines is appropriate to accomplish the purposes of the housing fund. These uses include, but are not limited to, assistance to housing development corporations, equity participation loans, grants, pre-home ownership co-investment, pre-development loan funds, participation leases, or other public/private partnership arrangements. The Affordable Housing Fund moneys may be extended for the benefit of rental or owner occupied housing or housing services.

29.03.030 Expenditure

Expenditures by the Planning Director from the Affordable Housing Fund shall be controlled, authorized and paid in accordance with general county budgetary policies. Every recipient shall enter into a written agreement with the County which sets forth the terms and conditions of the grant or loan. At a minimum, the agreement shall describe the allowable uses of the grant or loan funds, the dollar amount and disbursement method, compliance with the applicable County standards and policies for affordable housing including, but not limited to, Title 22 Section 22.12.070 – Housing Affordability Standards and Title 23 Section 23.04.094 – Housing Affordability Standards, and periodic reporting to assist the County in the monitoring of compliance with the agreement.

CHAPTER 29.04: COLLECTION OF FEES

Sections:

29.04.010	Application Review
29.04.020	Calculation of Fees
29.04.030	Collection and Deposit of Fees
29.04.040	Phase-in and Annual Adjustment of Fee Schedules

When a residential development project is permitted by the County to satisfy a portion or all of its affordable housing requirements by payment of in-lieu fees or when a non-residential project is required to pay housing impact fees, pursuant to Title 22 Section 22.12.080 – Inclusionary Housing and/or Title 23 Section 23.04.096 – Inclusionary Housing, the Director of Planning and Building (Planning Director) shall review the project application(s), determine the amount of fees, and shall collect and deposit the said fees into the appropriate accounts of the Affordable Housing Fund.

29.04.010 – Application Review

- a. The application for a residential development project shall not be complete unless the applicant submits an inclusionary housing proposal pursuant to Title 22 Section 22.12.080.J.1 – Residential development application, and/or Title 23 Section 23.04.096.j(1) – Residential development application. The applicant's inclusionary housing proposal shall be acceptable to the Planning Director and shall include: (1) a description of the residential project's inclusionary housing requirement, and (2) a statement by the applicant that describes his proposal for satisfying the inclusionary housing requirement by payment of in-lieu fees alone or in conjunction with other methods (with adequate detail).
- b. The application for nonresidential development shall not be complete unless the applicant submits a project description pursuant to Title 22 Section 22.12.080.J.2 – Commercial Development Application and/or Title 23 Section 23.04.096.j(2) – Commercial Development Application. The applicant's project description shall be acceptable to the Planning Director and shall include: (1) a statement of the number of gross square feet in the nonresidential project to be constructed, added or remodeled, (2) the intended use or uses for the nonresidential project by gross square feet (i.e., commercial/retail, industrial/warehouse); and (3) a statement by the applicant that describes his proposal for satisfying the nonresidential project's inclusionary housing requirement by payment of housing impact fees alone or in conjunction with other methods (with adequate detail). For mixed use projects, the project description shall also describe the percentage of floor area designated for habitable residential use (minimum 25% of total floor area) along with the number and location of dwelling units and each dwelling unit's size (number of bedrooms).

29.04.020 Calculation of Fees

- a. The Planning Director shall use Table 29.1 to calculate the in-lieu fees for residential development projects.

Table 29.1 – Residential Development – In-Lieu Fee Schedule

Unit Size (SF)	Per Unit Fee	Fee for one IHU*
Under 900 SF Exempt		
900	\$8,550	\$42,750
1,000	\$9,500	\$47,500
1,100	\$10,450	\$52,250
1,200	\$11,400	\$57,000
1,300	\$12,350	\$61,750
1,400	\$13,300	\$66,500
1,500	\$14,250	\$71,250
1,600	\$15,200	\$76,000
1,700	\$16,150	\$80,750
1,800	\$17,100	\$85,500
1,900	\$18,050	\$90,250
2,000	\$19,000	\$95,000
2,100	\$19,950	\$99,750
2,200	\$20,900	\$104,500
2,300	\$21,850	\$109,250
2,400	\$22,800	\$114,000
2,500	\$23,750	\$118,750
2,600	\$24,700	\$123,500
2,700	\$25,650	\$128,250
2,800	\$26,600	\$133,000
2,900	\$27,550	\$137,750
3,000	\$28,500	\$142,500
3,100	\$29,450	\$147,250
3,200	\$30,400	\$152,000
3,300	\$31,350	\$156,750
3,400	\$32,300	\$161,500
3,500	\$33,250	\$166,250
3,600	\$34,200	\$171,000
3,700	\$35,150	\$175,750
3,800	\$36,100	\$180,500
3,900	\$37,050	\$185,250
4,000	\$38,000	\$190,000

Source: San Luis Obispo County Inclusionary Zoning Ordinance Financial Analysis (December 21, 2007)

*IHU = Inclusionary Housing Unit. With a 20% inclusionary requirement, one affordable unit must be produced with every five market-rate units.

Note: Table 29.1 fees shall be phased in and thereafter automatically adjusted annually, pursuant to 29.04.040.

- b. The Planning Director shall use Table 29.2 to calculate the housing impact fees for nonresidential development projects.

Table 29.2 – Nonresidential Development – Housing Impact Fee Schedule

Nonresidential Land Use	Fee per square foot
Commercial/Retail	\$2.11
Commercial Service/Offices	\$2.46
Hotel/Motel	\$2.11
Industrial/Warehouse	\$0.98
Other Non-Residential	\$1.84

Source: Commercial Linkage Fee Nexus Study. Submitted to San Luis Obispo County on December 21, 2007.

Note: Table 29.2 fees shall be phased in and thereafter automatically adjusted annually, pursuant to 29.04.040.

For purposes of this Title, any non-residential project that will remodel or convert an existing structure into a new or different commercial/industrial use shall have a fee amount equal to the fees for the new use (as defined in Table 29.2) less any fees that were paid or would have been paid based on the original use of the building. For development with more than one type of commercial or industrial use, the Planning Director may calculate and collect the appropriate fee for each use type. If a proposed nonresidential project does not clearly fall within one or more of the land use categories listed in Table 29.2, the Planning Director shall determine the housing impact fee based on a case-by-case calculation of employee density. The Planning Director's determination of employee density shall be based on: data concerning anticipated employee density for the project submitted by the applicant; employment surveys or other research on similar uses submitted by the applicant or independently researched by the Planning Director; or any other data or information the Planning Director determines relevant. The Planning Director may exempt projects that clearly do not contribute to the demand for affordable housing, such as unmanned utility structures, parking garages, and ag exempt structures.

- c. The applicant may appeal the Planning Director's determination of fee amounts of in-lieu fees and/or housing impact fees pursuant to Section 29.05.030 – Appeal.

29.04.030 Collection and Deposit of Fees

The Planning Director shall collect the in-lieu fee and housing impact fee for each development project and subdivision pursuant to the fee collection process established in Title 22 Section 22.12.080 – Inclusionary Housing and/or Title 23 Section 23.04.096 – Inclusionary Housing. Pursuant to Title 22 Section 22.12.080.C.2 and/or Title 23 Section 23.04.096.c(2), the fee(s) shall be based on the fee schedule in effect at the time that the construction permit is issued, or the date that a subdivision map is recorded, or the date that a land use permit is approved when no construction permit or subdivision map is required. A different fee schedule may be specified in the trust deed(s) for vacant, subdivided parcels, pursuant to Title 22 Section 22.12.080.J – Compliance Procedures and/or Title 23 Section 23.04.096.j – Compliance Procedures. If a phased project or subdivision is proposed, the in-lieu fee and housing impact fee shall be calculated and collected separately for each project phase and/or subdivision phase. The Planning Director shall deposit the in-lieu fees and/or housing impact fees into the appropriate accounts of the Affordable Housing Fund. The Planning Director shall deposit the fees immediately after the fees are paid or as soon as reasonably possible.

29.04.040 Phase-in and Annual Adjustment of Fee Schedules

- a. The fee schedules in Tables 29.1 and 29.2 shall be phased in over a five year period. The amount, or percentage, of fees in Tables 29.1 and 29.2 that the County shall collect will be as follows:

Table 29.3 – Phasing of In-Lieu and Housing Impact Fees

Year	Year 1	Year 2	Year 3	Year 4	Year 5
Percentage of fee collected	20%	40%	60%	80%	100%

Table 29.4 – Examples of Phasing of Fees

Sample Project	Year 1	Year 2	Year 3	Year 4	Year 5
In-Lieu Fee – 2,100 s.f. Residence	\$3,990	\$7,980	\$11,970	\$15,960	\$19,950
Housing Impact Fee – 10,000 s.f. Commercial Retail building	\$4,210	\$8,420	\$12,630	\$16,840	\$21,050

- b. The fee schedules set forth in Tables 29.1 and 29.2 shall be adjusted each year. This annual adjustment shall be approved by resolution of the Board of Supervisors concurrently with the adjustment of the County's construction permit fees. In adopting each resolution the Board of Supervisors shall:
- (1) Identify the purpose of the fees.
 - (2) Identify the use to which the fees are to be put, in accordance with the Affordable Housing Fund Action Plan.
 - (3) Determine that there is a reasonable relationship between the fees' use and the type of development project on which the fees are imposed.
 - (4) Determine that there is a reasonable relationship between the County-wide need for affordable housing and the type of development projects on which the fees are imposed.
 - (5) Determine that there is a reasonable relationship between the amount of the fees and the cost of providing affordable housing that has been attributed to the type of development projects on which the fees are imposed.

The fees shall be increased or decreased by the percentage change in the Construction Cost Index for the San Francisco Bay Area for the prior year, as reflected in the Engineering News Record published by McGraw-Hill. The in-lieu and housing impact fees shall be adjusted and a new schedule published by the Planning Director on July 1 of each year. This adjustment will offset the effects of inflation related to construction cost increases or deflation-related cost decreases. If the Construction Cost Index is discontinued, the Planning Director shall use a comparable index for determining the changes in the median home costs for San Luis Obispo County. The fees shall be annually reviewed and updated at least every five (5) years to reflect any changes in the funding gaps for very low, low, moderate income and workforce households.

- c. In addition to the annual adjustment, the amount of the fees established by this Title may be revised periodically by resolution of the Board of Supervisors.

CHAPTER 29.05: OTHER RULES

Sections:

29.05.010	Annual Report and Findings
29.05.020	Annual Action Plan
29.05.030	Appeal
29.05.040	Severability Clause

29.05.010 Annual Report and Findings

Within 180 days of the end of the County's fiscal year, the Planning Director shall report to the Board of Supervisors on the status of activities undertaken with the Affordable Housing Fund. This report, entitled the Affordable Housing Fund Annual Report, shall include a statement of income, expenses, disbursements and other uses of the Affordable Housing Fund. The report shall describe the number of individuals assisted and the number of housing units constructed or assisted during the fiscal year. The report shall also describe the assisted units, including the unit types (rental or ownership), targeted income levels, geographic location, the amount of assistance provided and the amount of local, state and federal funds leveraged. The report shall contain a discussion of how well the goals of the previous year's Affordable Housing Fund Action Plan were met. The Planning Director shall also recommend any changes to this Title, other ordinances, the San Luis Obispo County Housing Element, or other actions necessary to carry out the purposes of this Title, including any adjustments necessary to the fees or fee administration.

The report shall also contain the information and findings required in Subsections a. through e. below.

- a. The Annual Report shall provide the following information for the Housing Impact Fee account:
 - (1) A brief description of the type of fee in the account.
 - (2) The amount of the fee.
 - (3) The beginning and ending balance of the account.
 - (4) The amount of the fees collected and the interest earned.
 - (5) An identification of each affordable housing development project on which fees were expended and the amount of the expenditures on each such project, including the total percentage of the cost of such development project that was funded with fees.
 - (6) An identification of an approximate date by which the construction of an affordable housing development project will commence if the County determines that sufficient funds have been collected to commence construction on an incomplete affordable housing development project, as identified in Section 29.01.010, and the affordable housing development project remains incomplete.
 - (7) A description of each interfund transfer or loan made from the account or fund, including the affordable housing development project on which the transferred or loaned fees will be expended. In the case of an interfund loan, describe the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan.
 - (8) The amount of refunds made pursuant to Subsection d. below, along with any allocations pursuant to Subsection e. below.

- b. Once each fiscal year the County Auditor-Controller shall report to the Board of Supervisors any portion of a fee within any (and all of) the accounts of the Affordable Housing Fund that remains unexpended or uncommitted five (5) or more years after deposit and identify the purpose for which the fee was collected.
- c. Whenever the County Auditor-Controller identifies an unexpended or uncommitted fee, pursuant to Subsection b. above, the Board of Supervisors shall make the following findings each fiscal year with respect to any portion of the fee remaining unexpended or uncommitted in its account five (5) or more years after deposit of the fee:
 - (1) Identify the purpose to which the fee is to be put.
 - (2) Demonstrate a reasonable relationship between the fee and the purpose for which it was charged.
 - (3) Identify all sources and amounts of funding anticipated to be used to complete the financing for incomplete the affordable housing program goals and/or affordable housing development projects that are identified in Section 29.01.010.
 - (4) Designate the approximate dates on which the funding referred to in Subsection c(3) above is expected to be deposited into the appropriate account or fund.

When findings are required by this Subsection, they shall be made in connection with the information required by Subsection a. above. The findings required by this Subsection need only be made for moneys in possession of the County, and need not be made with respect to letters of credit, bonds, or other instruments taken to secure payment of the fee at a future date.

- d. Except as provided below in Subsection e, when sufficient funds have been collected, as determined pursuant to Subsection a(6) above, to complete financing on incomplete affordable housing development project(s) identified in Section 29.01.010, and the affordable housing development projects remain incomplete, the County shall identify, an approximate date by which the construction of the development project(s) will be commenced. Otherwise, the County shall refund to the then current record owner or owners of the lots or units, as identified on the last equalized assessment roll, of the development project or projects on a prorated basis, the unexpended portion of the fee, and any interest accrued thereon. The County may refund the unexpended revenues by direct payment, by providing a temporary suspension of fees, or by any other reasonable means. The determination by the Board of Supervisors of the means by which those revenues are to be refunded is a legislative act.
- e. If the administrative costs of refunding unexpended and uncommitted revenues collected pursuant to Subsection d. (above) exceed the amount to be refunded, the Board of Supervisors, after a public hearing for which notice has been published pursuant to Government Code section 6061 and posted, may determine that the revenues shall be allocated for some other purpose for which the fees are collected subject to this Title that serve the project on which the fee was originally imposed. The hearing notice shall in be posted in three prominent places within the area of the affordable housing development project whenever possible, otherwise the notice shall be posted within three prominent places of County government business.

29.05.020 Annual Action Plan

Concurrent with preparation of the Annual Report the Planning Director shall also prepare an Affordable Housing Fund Action Plan and present it to the Board of Supervisors for approval. The Action Plan shall guide the use of the Affordable Housing Fund and its individual accounts. This document shall plan for the

current fiscal year or other appropriate time frame to ensure accurate and effective planning and budgeting of fund revenues. The Action Plan shall include:

- a. A description of all programs to be funded with funds from the Affordable Housing Fund and its individual accounts, specifying the intended beneficiaries of each program.
- b. The amount of funds budgeted for loans or grants to recipients who agree to participate in Board approved Programs.
- c. The amount of funds budgeted for administrative expenses.
- d. Funding priorities that are consistent with the County's housing policies and goals, including the purpose statements of the County's Inclusionary Housing Ordinance (Land Use Ordinance Section 22.12.080 – Inclusionary Housing, and Coastal Zone Land Use Ordinance Section 23.04.096 – Inclusionary Housing), the purpose and intent statements of this Title (Title 29 Section 20.01.010) and the programs of the Housing Element.

All disbursements from the Affordable Housing Fund shall be consistent with the Affordable Housing Fund Action Plan.

29.05.030 Appeal

A person applying for the approval of any development project subject to an in-lieu fee and/or housing impact fee may file an appeal to the Board of Supervisors for reduction or adjustment to the fees, or a waiver of the fees, as follows:

- a. **Timing and Form of Appeal.** An appeal shall be made in writing on the form provided by the Planning Department and may be accompanied by any other supporting materials the appellant may wish to furnish explaining the reasons for the appeal. The appeal shall be filed with the Planning Department not later than: (a) within 14 days of a public hearing granting approval of the development project subject to the in-lieu fee and/or housing impact fee; or (b) if no public hearing for the development permit is required, at the time of the filing of the application for the development permit; or (c) within 14 days of when the Planning Director has calculated and determined the fee amount to be imposed on the development project. The Planning Director shall process the appeal pursuant to this Section, including scheduling the matter before the Board of Supervisors for a public hearing.
- b. **Basis for the Appeal.** The appeal for reduction or adjustment to the fees, or waiver of the fees, shall be based upon the absence of any reasonable relationship or nexus between the impacts of the development project and either the amount of the fee charged or the affordable housing program or affordable housing development to be financed.
- c. **Report and Hearing.** When an appeal has been filed, the Planning Director will prepare a staff report and recommendation for consideration by the Board of Supervisors within 60 days of the filing of the appeal.
- d. **Action and Findings.** After holding a public hearing, the Board of Supervisors may affirm, affirm in part, or deny the appeal, based upon findings of fact regarding the particular case. Such findings shall identify the reasons for the action on the appeal. The decision on the appeal by the Board of Supervisors shall be final.
- e. **Withdrawal of Appeal.** After an appeal has been filed pursuant to this Section, the appeal shall not be withdrawn except with the consent of the Board of Supervisors.

- f. Modification of the Development Project After Granting of an Appeal. If a reduction, adjustment or waiver of the in-lieu fee or housing impact fee is granted, any change of the development project, or any change in use within the development project, shall invalidate the waiver, adjustment or reduction of the fees and the originally imposed fees shall be recalculated to reflect project changes and shall be due and payable to the County.

29.05.040 Severability Clause

Should any provision of this Title or a subsequent amendment thereto be held by a court of competent jurisdiction to be either invalid, void or unenforceable, the remaining provisions of this Title shall remain in full force and effect.

CHAPTER 29.06: DEFINITIONS

Sections:

29.06.010 Definitions

29.06.010 Definitions

Words when used in this Title, and in resolutions adopted under the authority of this Title, shall have the following meanings:

- a. "Affordable" means housing which can be purchased or rented by a household with very low, low, moderate or workforce income, as described in Title 22 Section 22.12.070 and Title 23 Section 23.04.094 – Housing Affordability Standards, all of the County Code
- b. "Affordable housing unit" – see "Affordable."
- c. "Board of Supervisors" means the Board of Supervisors of the County.
- d. "County" means the County of San Luis Obispo, a general law County organized and existing under the Constitution and law of the State of California.
- e. "Development Project" means any project undertaken for the purpose of development.
"Development Project" includes, but is not limited to the following:
 - (1) Any project requiring an approval pursuant to Title 22 of the County Code, including approvals of development plans, site plans, minor use permits, and variances, but excepting approvals of County General Plan/Land Use Ordinance amendments;
 - (2) Any project requiring the approval of any application filed pursuant to the County Coastal Zone Land Use Ordinance, Title 23, and portions of Title 8 and Title 19 of the County Code, including the approval of coastal development permits, development plans, site plans, minor use permits, and variances, but excepting Local Coastal Plan/Coastal Zone Land Use Ordinance amendments;
 - (3) Land divisions pursuant to Title 21 of the County Code, including lot line adjustments, certificates of compliance, parcel maps, tract maps and condominium conversions;
 - (4) Any project which requires the issuance of any construction permit; and
 - (5) Any other real property development, which is subject to the jurisdiction of the County and which requires an approval that is subject to the exercise of the discretion of the Board of Supervisors, the County Planning Commission, the Planning Director of the County, or the Chief Building Official of the County.
- f. "Fee" means a monetary exaction, other than a tax or special assessment, which is charged by a local agency to the applicant in connection with approval of a development project for the purpose of mitigating the demand for affordable housing caused by a development project, to enable residential development projects to provide a fair share of affordable housing units. and to mitigate the impact to the County's housing stock caused by commercial and industrial development projects. "Fee" means the in-lieu fee and/or the housing impact fee established by this Title.

- g. “Housing Impact Fee” means a fee paid to the County to off-set the demand for housing created by commercial and industrial development, pursuant to Title 22 Section 22.12.080 and Title 23 Section 23.04.096 – Inclusionary Housing, all of the County Code.
- h. “In-Lieu Fee” means a fee paid to the County as an alternative to the production of Inclusionary housing units by the developer, pursuant to Title 22 Section 22.12.080 and Title 23 Section 23.04.096 – Inclusionary Housing, all of the County Code.

SECTION 2. Regarding the Final Environmental Impact Report (FEIR) issued for amendments, the Board of Supervisors hereby certifies that the FEIR has been prepared and completed in compliance with the California Environmental Quality Act, California Public Resources Code Section 21000 et seq. and the Board of Supervisors reviewed and considered the information contained in the FEIR prior to approving the amendments and that the FEIR reflects the lead agency's independent judgment and analysis. Further, the Board of Supervisors hereby adopts the recommended findings of the County Environmental Coordinator which are attached hereto and incorporated herein as though fully set forth.

SECTION 3. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 4: This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the 9th day of December, 20 08, by the following roll call vote, to wit:

AYES: Supervisors Bruce S. Gibson, K.H. 'Katcho' Achadjian, Jerry Lenthall, and
Chairperson James R. Patterson

NOES: Supervisor Harry L. Ovitt

ABSENT: None

ABSTAINING: None

/s/ James R. Patterson
Chairman of the Board of Supervisors,
County of San Luis Obispo,
State of California

ATTEST:

JULIE L. RODEWALD
County Clerk and Ex-Officio Clerk
of the Board of Supervisors
County of San Luis Obispo, State of California

By: /s/Sandy Currens
[SEAL] Deputy Clerk

ORDINANCE CODE PROVISIONS APPROVED
AS TO FORM AND CODIFICATION:

WARREN R. JENSEN.
County Counsel

By: _____
Deputy County Counsel

Dated: _____